

STAFF ANALYSIS OF THE PROPOSED AMENDMENT TO PLACE EARTH FILL FROM THE BLYTHE ENERGY PROJECT (99-AFC-8C)

Introduction

The petition to add 66 acres to the Blythe Energy Project (BEP) site was originally filed on November 21, 2001. The requested expansion acreage is located in eastern Riverside County, in the City of Blythe, California, approximately five miles west of the center of town. The property is immediately adjacent to the west of the existing BEP site and is owned by Riverside County Power. The original request was to construct two evaporation ponds and a retention basin on the expansion acreage. However, processing of the request has taken much longer than anticipated. Therefore, due to critical path deadlines in the project construction schedule, the petitioner submitted a major revision on June 6, 2002. The changes in the revised petition are the elimination of the two evaporation ponds and a retention basin on the expansion site, which are replaced by transferral and deposition of sediments removed from the original BEP site to the expansion acreage. These sediments are excess earth excavated from the evaporation ponds and retention basin constructed on the original BEP site.

Staff believes that the final proposal involves a lower level of disturbance and potential impacts than the original one, mainly because it does not involve any excavation on the additional 66 acres. It also protects an approximately 12-acre portion of the new acreage identified as containing potentially significant cultural resources. This area will be fenced, and no sediments will be placed on it. In addition to adding the new 66-acre area to the Project, a 10-acre area that was originally added to the project description on December 21, 2001, for temporary laydown, is proposed to be approved as a permanent part of the facility as part of this petition. All required environmental mitigation has already been provided to make this area permanent.

Other alternative sites were examined for the disposal of earth excavated from the BEP site. Each alternative site had pros and cons associated that resulted in a conclusion that none of them presented a clear advantage over the 66-acre site requested by the petitioner. There were questions raised concerning varying degrees of potential biological, cultural and archeological impacts for the alternative sites. All of the other sites were some distance from the BEP site, which would have resulted in varying degrees of traffic congestion from the estimated 15,000 truck trips that would have been required to haul the material. Concerns were also raised about the impact of the cumulative weight of the truckloads needed to transport the fill to those sites on freeway overpasses that would have been used. In addition, the deposition of the material on the requested adjacent 66 acres would minimize mobile source emissions due to the elimination of most truck transportation in comparison with the alternative sites.

From a biological standpoint, the 66-acre expansion area has been identified as marginal tortoise habitat. The loss of this habitat due to incorporation into the BEP site would be mitigated by the acquisition of prime tortoise habitat resulting in a potential advantage from the standpoint of tortoise protection. Regarding the loss of habitat for

Harwood's Milkvetch habitat, that habitat would be replaced with acreage comprising equal quality habitat or better. Both habitat parcels would be protected by a long-term maintenance plan to be carried out by the Desert Tortoise Preserve Committee, which has considerable experience acquiring and protecting habitat.

Prior to any earth disturbance in connection with the placement of fill on the 66-acre area, the petitioner must comply with all existing conditions of certification that apply to the proposed activity. These include, but are not limited to, obtaining approval of a revised grading plan (Facility Design CIVIL-2), a revised Soil and Water Pollution Prevention Plan (SOILS & WATER 1) a revised Erosion Control and Revegetation Plan (SOILS & WATER 2), and a revised Biological Resources Mitigation Implementation and Monitoring Plan (BIO-14) that include the new area.

Although there is a new power plant project proposed for the same 66-acre expansion area requested in this petition, this request is not related to that proposal. Approval by the Energy Commission of this petition does not signify or imply approval of the new proposed project, which is currently in the application process and undergoing its own independent public review.

The following are the staff assessments of the areas of Cultural and Biological Resources and proposed conditions of certification. All other areas of environmental concern were reviewed, and there were no findings of any potential for significant environmental impacts in any of these areas.

Cultural Resources

Prepared by: Gary Reinoehl

Setting

Cultural resource inventories and consultation with Native American Tribes were conducted as part of the proposed 66-acre expansion area. The inventory identified two historic-period archeological resources within the project area and consultation with Native Americans identified a sacred property near the project area. The two historic-period archeological sites were tested to determine if they meet the eligibility criteria for the California Register of Historic Resources (CRHR) and the National Register of Historic Places (NRHP). Native Americans expressed a concern that there is a cumulative impact to the setting of the sacred site, and we have taken that into account in the Cultural analysis and recommendations.

Applicable Laws, Ordinances and Regulations and Standards (LORS)

The LORS listed in the Final Staff Assessment and in the Commission's Final Decision are applicable to this amendment. There are no additional LORS.

Analysis

66-acre Expansion

The expansion area has been surveyed for cultural resources and two cultural resources were identified. The project owner evaluated both of the resources for their eligibility to the NRHP. One resource, CA-RIV 6725H, was recommended by the project owner as not meeting the eligibility criteria for the NRHP. The *Preliminary Draft Archaeological Testing and Evaluation Report for the Blythe Energy Project, Riverside County, California*, states that CA-RIV-6370H "meets Criterion D of the National Register and is also important pursuant to the California Register." Therefore, the Project Owner's representative has recommended that CA-RIV-6370H is eligible for the NRHP and the CRHR.

CA-RIV-6725H

Commission staff requested additional information regarding the contents of CA-RIV-6725H. The field excavation and recording was completed on February 26, 2002. The report documenting the findings and additional recordation indicated that the deposit consisted mostly of domestic refuse and was essentially a surface deposit. The additional recording of CA-RIV-6725H has recovered all of the information contained in the deposit. Consequently, CA-RIV-6725H is not eligible for the CRHR.

CA-RIV-6370H

CA-RIV-6370H was recorded as a large site, covering about 225 meters by 275 meters. During a field visit to the site in January of 2002, features similar to those that comprise the site were observed outside the boundaries shown in the site record dated August, 2001. The portions that were not recorded did not appear to have many artifacts associated with them.

The Commission staff asked the project owner to amend the record for CA-RIV-6370H to include the additional features. An additional record dated June 5, 2002 records the site as covering an area 268 meters by 293 meters. In addition, the update indicates that a corner of one of the mounds and some other land modifications were altered by the construction of the 10 acre laydown area prior to the initial recording of the site. The relatively small portion of the site destroyed by the preparation of the 10-acre laydown area was documented using an aerial photograph dated 10/01/99. This destruction was carried out by the previous owner of the site, and the petitioner has agreed not to further disturb those portions of the site until further investigation for artifacts has been completed.

Extensive backhoe testing and excavation of four controlled units are reported in the *Preliminary Draft Archaeological Testing and Evaluation Report for the Blythe Energy Project, Riverside County, California*, which concludes that CA-RIV-6370H "meets Criterion D of the National Register and is also important pursuant to the California Register." Western Area power Administration (Western) has entered into a Memorandum of Agreement with the California State Historic Preservation Officer to "resolve any adverse effects of the undertaking on CA-RIV-6370H." The analysis contained in the draft testing report was not sufficient to clearly conclude that CA-RIV-6370H is eligible for the CRHR. CA-RIV-6370H will be treated as eligible until such time

that the research design, background research and analysis of artifacts is completed and the determination of eligibility for the NRHP and CRHR can be clearly made.

The project owner recommended recordation of the features in the southern portion of the site where there are few artifacts, and preservation of the northern portion of CA-RIV-6370H (based on the August 2001 boundary) that is on the 66-acre expansion area. Preservation would be accomplished by fencing the portion of the area with artifacts (i.e., the northern portion, which is the area contained within the August 2001 site boundary) so that construction would not be allowed to disturb that portion of CA-RIV-6370H. A chain link fence (six-foot height) would be constructed around the northern portion (approximately 12 acres) of the 66-acre expansion area. The fence separating the northern and southern portions of the area would be desert tortoise proof. Requests for research would be submitted to the CPM and Western for review and approval once landowner permission has been acquired. Before any additional work is conducted within the northern protected portion of the area, the area should be evaluated for presence of unexploded ordnance and hazardous materials. Until such time that the research design, background research and analysis of artifacts is completed and the determination can be clearly made, CA-RIV-6370H will be treated as eligible for the CRHR. If at a future date CA-RIV-6370H were determined by the Energy Commission to not meet the eligibility criteria for the CRHR, then mitigation measures would no longer be required.

Native American Concerns Regarding Sacred Sites

Western and the Energy Commission staff consulted with Native Americans tribes regarding their concerns. Some groups indicated that there is a sacred site in the vicinity of the project area. Although the sacred site is not within the expansion area, the Native American tribes expressed a concern about cumulative impacts. They expressed a desire to have an ethnographic study completed for the project vicinity. A Condition of Certification, BUL-15, is proposed by staff to require preparation of an ethnographic study in accordance with the request of Native American representatives.

Amendment of Condition of Certification CUL-7 and additional Conditions of Certification would be necessary to ensure that the impact to these cultural resources would be reduced to a less than significant level. Condition CUL-7 needs to be changed so that it is applicable to identification of cultural resources rather than being limited to discoveries. Conditions 9 through 14 require mitigation for the impacts to CA-RIV-6370H and are necessary to identify all the areas where avoidance measures and other mitigation measures would be required. CUL-15 requires mitigation for cumulative impacts to sacred sites in the vicinity of the project.

Conclusions and Recommendations

The proposed amendment and the technical reports discuss the procedures that would be followed in order to reduce environmental impacts to cultural resources to less than significant level. Identification of cultural resources was incomplete when the amendment was filed. Consequently, conditions requiring a specific process are a necessary addition to the existing Conditions of Certification. Staff recommends that the amendment be approved with the changes to Condition CUL-7 and the addition of Conditions CUL-9 through CUL-15. All Cultural Resources Conditions of Certification shall apply to any work performed on the 66-acre expansion site.

Mitigation Measures and Conditions

Staff's proposed mitigation measures require recordation, data recovery, monitoring and avoidance procedures and allow for additional data recovery. All resources that might be affected may not have been identified, so definition of areas where mitigation measures are required and what resources are involved is not complete. The existing CUL-7 condition of Certification is limited in its applicability to discoveries. This condition needs to be amended to be applicable to a wider range of cultural resource situations. Combining the existing conditions with the amended CUL-7 and adding Conditions 9 through 15 would ensure that the impacts of the proposed project would be less than significant.

CUL-7: The project owner shall submit the Cultural Resources Report (CRR) to the CPM and Western for approval. The CRR shall report on all field activities including dates, times and locations, findings, samplings and analysis. All survey reports, Department of Parks and Recreation (DPR) 523 forms and additional research reports not previously submitted to the California Historic Resource Information System (CHRIS) shall be included as an appendix to the CRR.

The CRR shall include (but not be limited to) the following:

1. A brief description of pre-project literature search and surveys;
2. A description of the cultural resource(s) that could be affected by the project;
3. A description of the process used to arrive at a determination of significance;
4. A discussion of the research questions that the recovered data could address or answer;
5. A description of the methods employed in the field and laboratory to complete data recovery efforts;
6. A description (including drawings and/or photos) of recovered cultural materials;
7. An inventory list of recovered cultural resource materials;
8. Results and findings of any special analyses conducted on recovered cultural resource materials, including an interpretation of the site in regards to any research design prepared prior to the data recovery;
9. Conclusions and recommendations;

10. Maps (7.5 minute USGS topographic map) showing the area involved in the data recovery;
11. Copies of completed DPR 523 forms, including photos, maps, and drawings; and
12. The name and location of the public repository that has agreed to receive the recovered cultural resources for curation.

Verification: The project owner shall ensure that the CRS completes the CRR within ninety (90) days following completion of the analysis of the recovered cultural materials. Within seven (7) days after completion of the report, the project owner shall submit the CRR to Western and the CPM for review and written approval. Western will submit the report, when approved, to the State Historic Preservation Officer in order to complete consultation under Section 106 of the National Historic Preservation Act. Reports previously submitted to the Energy Commission in compliance with other conditions of certification and copies provided to the CHRIS may be incorporated by reference.

CUL-9 Prior to any ground disturbance within the boundaries of CA-RIV-6370H, the project owner shall complete a thorough recording of the features (mounds, bulldozer tracks, and other landform modifications) in the southern portion of the site (as depicted on the sketch map of the June 2002 update of CA-RIV-6370H) by photographs, detailed written descriptions, and maps. Any artifacts associated with the features will be thoroughly documented (materials, size, function, any production marks or time sensitive attributes).

Verification:

1. At least 30 days prior to ground disturbance within the boundaries of CA-RIV-6370H, evidence shall be provided to the CPM for review and approval that sufficient information has been gathered to complete a report documenting the southern portion of CA-RIV-6370H.
2. Within 90 days of completing verification 1 above, a report documenting the southern portion of CA-RIV-6370H, including written descriptions, maps, and photographs of the features south of the south fence impact area shall be submitted to the CPM for review and approval.

CUL-10 Prior to ground disturbance and after the southern portion of CA-RIV-6370H has been recorded as required in CUL-9, the project owner shall complete the following:

1. Construction of a chain link fence (minimum of six-foot height) around the northern portion of the CA-RIV-6370H. At a minimum, the fence shall enclose the area depicted on the sketch map of the June 2002 update of CA-RIV-6370H. The southern fence shall be desert tortoise proof. The fence shall be constructed in such a manner that all areas disturbed as a result of preparation for, construction of, and removal of the temporary desert tortoise proof fence and the permanent desert tortoise proof fence shall not disturb the portion of CA-RIV-6370H that contains artifacts.
2. Construction of a gate with lock mechanism in the fence shall allow access for inspections, and research as approved by the CPM, or for emergency operations.

Requests for research shall be submitted to the CPM and Western Area Power Administration (Western) for review and approval.

Verification:

1. At least 15 days prior to start of fence construction, plans or maps shall be provided to the CPM (under confidential cover) for review and approval delineating the location of the proposed fence, temporary fences, and construction/removal impact areas and the boundary of CA-RIV-6370H. The boundary between the northern and southern portions of the site shall be noted on the plans or maps provided.
2. Requests to conduct research on CA-RIV-6370H shall be provided to the CPM and to Western for review and approval. Copies of letters granting access to the project owner's property shall be provided to the CPM and Western.

CUL-11

- 1) The CRS or a CRM shall monitor ground disturbance, but not the subsequent placement of fill material, within the southern portion of CA-RIV-6370H, including the portion already altered within the 10 acre laydown area, and the construction of the fence around the northern portion of CA-RIV-6370H. Any artifacts or other sources of archeological data encountered during construction will be documented, adding any artifacts recovered to the collection. All collected artifacts shall be added to the collection, and the documentation shall be added to the CRR that will be filed with the collection.
- 2) Monitors shall keep a daily log of any monitoring or cultural resource activities and the CRS shall prepare a weekly summary report on the progress or status of cultural resources-related activities providing an update that may include information that no monitoring activities have occurred. The CRS may informally discuss cultural resource monitoring and mitigation activities with Energy Commission technical staff.
- 3) The CRS shall notify the project owner and the CPM, by telephone or email, of any incidents of non-compliance with any cultural resources conditions of certification within 24 hours of becoming aware of the situation. The CRS shall also recommend corrective action to resolve the problem or achieve compliance with the Conditions of Certification.

Verification:

- 1) The requirements for the CRR are specified in CUL-7.
- 2) During the ground disturbance phases of the project, the project owner shall include in the MCR to the CPM copies of the weekly summary reports prepared by the CRS regarding project-related cultural resources monitoring activities. Copies of daily logs shall be retained and made available for audit by the CPM as needed.
- 3) Within 24 hours of recognition of a non-compliance issue, the CRS shall notify the CPM by telephone of the problem. Daily logs shall include forms detailing any instances of non-compliance with conditions of certification. In the event of a non-compliance issue, a report written no sooner than two weeks after resolution of the issue shall be provided in the next MCR.

CUL-12 1) The CRS shall ensure that the artifacts collected from CA-RIV-6370H are analyzed by archeologists experienced in the analysis of twentieth-century cultural material. The analysis, an expanded research design, and additional background research shall be contained in the CRR and shall address significant historical, anthropological, sociological, or other research questions relevant to the collection. The CRR shall provide a final recommendation of eligibility for CA-RIV-6370H. If the CPM determines that CA-RIV-6370H does not meet eligibility criteria for the CRHR, no further mitigation will be necessary.

2) The cultural resource materials shall be treated in accordance with the requirements and verification of condition Cul-8 unless CA-RIV-6370H does not meet the eligibility criteria for the CRHR.

Verification:

- 1) The project owner shall provide a copy of the resume of the individual experienced in the analysis of twentieth-century cultural material responsible for the analysis to the CPM for review and approval.
- 2) The project owner shall provide a letter to the CPM notifying the Energy Commission that the collection has been transferred to the collection repository, if site CA-RIV-6370H is determined to be eligible.

CUL-13 A copy of the CRR will be provided to the CHRIS.

Verification: Within 30 days of the approval of the CRR by the Energy Commission and Western, the project owner shall provide a copy of the transmittal letter of the CRR to the CHRIS will be provided to the CPM.

CUL-14 Prior to any project-related activities, such as transmission line reconductoring, pole replacement, or any other project-related task which may result in ground disturbance that was not included in information provided to the Energy Commission, the project owner must determine the availability of current (i.e. within 5 years) cultural resource surveys of the proposed ground disturbance. If there are not current surveys, the project owner must ensure that new surveys are preformed. If cultural resources are identified that cannot be avoided, they must be evaluated for eligibility for the National Register of Historic Places and the CRHR.

The responsibility for the evaluation must be taken by persons meeting the Secretary of the Interior's Professional Qualification Standards in a discipline appropriate to the historic context within which the resource is being considered (OHP 1995). If significant cultural resources would be affected, then mitigation measures shall be determined in consultation with the CPM and Western.

Verification: At least 30 days prior to ground disturbance associated with project-related activities not previously described in the AFC or other information provided to the Energy Commission, the project owner shall provide the results of any additional cultural resource surveys and evaluations in the form of a technical report (with request for confidentiality, if needed), along with any associated maps, to the CPM for review and approval. All required mitigation will be completed prior to construction of the project-related activities.

CUL-15 Within six months of the on-line date, the project owner shall have a cultural anthropologist meeting the Secretary of Interior's Standards prepare a study of the ethnographic area that contains the Blythe Energy Project for review and approval by the CPM.

Verification: Within six months of the on-line date of the power plant, the project owner shall provide an ethnographic study of the project area (with request for confidentiality, if needed), along with any associated maps, to the CPM for review and approval.

Biological Resources

Prepared by: Natasha Nelson

Setting

The 66-acre expansion area is covered in a low diversity Sonoran Creosote Bush Scrub which would be grubbed and cleared prior to the placement of fill. The November 2001 amendment request involved moving project components to the expansion area. Since the original petition was revised on June 6, 2002, to use the 66-acre expansion area only as a sediment disposal area, the current project description is significantly different from the original one that was submitted to the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG). Those descriptions indicate that the expansion area had benefits to biological resources because it would allow for a more efficient layout for a second power plant and this advantage has now vanished. Staff will need to consult with the USFWS and CDFG, in partnership with Western, during the 30-day comment period for this Staff Analysis. Staff's goal will be to review the change in action and to ensure all potential impacts of the revised petition have been mitigated.

The applicant did not submit alternative locations for the fill to biological resources staff to review, and did not provide justification as to why the 66-acre parcel was the best available location. It is very possible that other alternative locations are available that do not cause this level of habitat loss. However, the applicant made their choice of the 66-acre parcel based on other issues as described in the Introduction section above. The applicant proposed to mitigate for the loss of habitat on the 66-acre expansion area with the purchase of higher quality habitat, and no potentially significant impacts should remain after this mitigation is applied (pending review by resource agencies).

Applicable Laws, Ordinances and Regulations and Standards (LORS)

The LORS listed in the Final Staff Assessment and in the Commission's Final Decision are applicable to this amendment. There are no additional LORS.

Analysis

Field surveys for the 66-acre expansion site were conducted by the applicant's biologist on September 18, 2001. The survey team consisted of one experienced biologist (with both a general and specific knowledge of local biological taxa, habitats, and target species), and two biologist with varying levels of experience. Less experienced personnel were trained by the experienced biologist prior to starting. The survey area included the 66-acre expansion area plus a buffer area. One hundred percent of the expansion area was walked using 30-foot-wide transects which is consistent with USFWS protocol for desert tortoise surveys. In the buffer area, six transects, each 30 feet wide, north and west of the side of the project site at 200 foot intervals were completed. Areas to the south and east are developed by a power plant and Interstate 10, and did not require biological surveys.

Although the area is within the historic range of the species, desert tortoise densities in this area are extremely low. No sign of desert tortoise has been found on-site or off-site since surveys began in 2000. The combination of low elevation, low shrub density, lack of topographical relief and soil quality make the area poor quality habitat for desert tortoise.

Western submitted a biological assessment to the USFWS in February 2002. Their conclusion was that the proposed action would have no effect on two federally-listed species (bald eagle, California brown pelican) and one federally-proposed species (mountain plover), but may affect, but is not likely to adversely affect the desert tortoise. The USFWS is expected to issue an amended Biological Opinion in July 2002 with this same conclusion.

Only after the amendment to the existing Biological Opinion has been released can CDFG review the project for its consistency with the California Endangered Species Act. Based on calls with CDFG (June 6, 2002 with Arturo Delgado), the CDFG review is likely to result in concurrence with the USFWS Biological Opinion on desert tortoise if the applicant compensates for the permanent loss of habitat.

Conclusions and Recommendations

For the ground disturbing activities associated with this amendment, all applicable biological resources conditions of certification approved by the Commission, conditions 1 through 14, shall apply.

Desert Tortoise Protection

In order for Blythe Energy Project to be in compliance with the federal Endangered Species Act, any project construction outside of the Project Area described in the Biological Opinions (a 76-acre site plus a 10-acre area currently used for laydown, which is proposed for permanent uses, and two natural gas pipelines right-of-ways), must be permitted by the USFWS. The USFWS has reviewed the Biological Assessment submitted by Western, which identified potential impacts to the desert tortoise (state- and federally-listed as threatened). The USFWS has proposed several

terms and conditions to their issuance of an amended Biological Opinion. In anticipation of the amended Biological Opinion in July and to reduce potential impacts to desert tortoise to less than significant levels, staff recommends the modification of **Condition of Certification BIO-1's** Verification as follows:

Verification: For the 15276-acre power plant site, the project owner shall ensure the following:

1. Fence the project site construction areas and permanent facilities with desert-tortoise-proof fencing prior to mobilization in undeveloped areaseconstruction. Gate(s) shall be desert tortoise proof as well. Gate(s) shall remain closed except for the immediate passage of vehicles. High use gate(s) will be maintained and have monthly examinations. If the northern portion of the western 76-acre parcel is deemed a historic area and will not be developed, its northern and western edge shall be fenced with a six-foot cyclone fence which has a six-inch gap between the bottom of the fence and ground level. If instead the area is to be developed, the edge shall be fenced with desert-tortoise-proof fence.

Staff also recommends that the following be added to this bullet list:

9. Only native species shall be used for landscaping the plant site.

Western, USFWS, and Energy Commission staff discussed with the Desert Tortoise Preserve Committee (DTPC) their ability to receive funds for desert tortoise mitigation on June 7, 2002. The DTPC is willing and able to accept these funds, thus staff proposes changes to **Condition of Certification BIO-12** to reduce potential impacts to desert tortoise to less than significant levels as follows:

BIO-12 To compensate for permanent impact to desert tortoise habitat, the project owner shall provide compensation funds in the amount of ~~\$92,580~~ \$183,780 to the Desert Tortoise Preserve Committee for the improvement or acquisition of desert tortoise habitat in the Chuckwalla Bench area. The compensation funds include land or conservation purchase costs and endowment funds for administration, management, maintenance, monitoring, operation, and research costs.

Verification: Not less than 15 days prior to the start of any ~~construction earth moving activities~~ on the original site or the 66-acre expansion area (including exclusion fencing), the project owner will provide the check made out to the Desert Tortoise Preserve Committee (DTPC) to the DTPC and a copy of the check verifying the funds were paid, to the CPM.

Hardwood's Milkvetch Protections

The biological survey of the Expansion Area noted marginal habitat for Harwood's milkvetch exists, but surveys during September 2001 would not have been able to detect individuals. Because this amendment results in the substantial impacts to potential Harwood's milkvetch habitat, the applicant should also be proposing mitigation funding to offset impacts to this species. In addition, the USFWS has a preliminary

condition requesting a \$25,000 compensation fee be paid. Staff recommends the following change to **Condition of Certification BIO-13** be incorporated to reduce potential impacts to this species to less than significant levels:

BIO-13 To compensate for permanent impacts to Harwood's milkvetch, the project owner shall provide ~~\$25,000~~\$50,000 to revegetate or to protect an appropriate area with Harwood milkvetch. The minimum number of viable plants to be installed or protected will be ~~one~~ two-hundred. On the land conserved for the desert tortoise, appropriate locations for the plantings will be identified and plantings carried out under the supervision of a botanist with desert restoration experience working for the Desert Tortoise Preserve Committee. Alternatively, a donation in the amount of ~~\$25,000- \$50,000~~ (or a partial sum, if a lesser amount is determined to be necessary by the DTPC) shall be given to the Rancho Santa Ana Botanical Gardens for the collection and preservation of Harwood's milkvetch seeds if the mitigation can not be fulfilled on the desert tortoise conservation parcel. Other appropriate options can be considered as needed and desired.

Verification: Within 30 days of the start of ~~construction~~ earth moving activities on the site or Expansion Area (including exclusion fencing), the project owner shall submit a plan to the CPM for review and approval. Or, the project owner will provide a check to the Desert Tortoise Preserve Committee or Rancho Santa Ana Botanical Garden as applicable, and will provide a copy of the check to the CPM.

Flat-tailed Horned Lizard Protections

The presence of flat-tailed horned lizard (*Phrynosoma mcallii*), a federally recommended candidate for listing¹ and a state species of special concern and a state candidate for listing², on the site has been reviewed by the applicant at the request of the USFWS and CDFG. The applicant's review of the species is summarized below:

The species is generally associated with loose-sandy soils or at least requires patches of windblown sand (Foreman 1977, A. Muth, pers. comm.). Suitable habitat is available immediately south of Interstate 10, but presumably not at the Blythe Energy Project (BEP) site or proposed 66-acre expansion site. If the lizard was occupying the site, then this represents a substantial species range extension of approximately 45 miles and over several mountain ranges (Foreman 1977). Given these factors on range and habitat, as well as an absence of information about the actual circumstances under which the specimen was found, flat-tailed horned lizard surveys do not appear to be warranted at the BEP site or Amendment I-B expansion site.

¹ The 1993 petition to list this species as threatened was reopened by the USFWS on December 26, 2001, but the decision is still pending.

² The 1986 and 1992 petitions to list this species as threatened were rejected by the Fish and Game Commission based on insufficient information.

Literature Cited:

Foreman, L. 1977. Flat-tailed horned lizard rangewide management strategy. Report of interagency working group. 61 pp. plus appendices.

Staff told the applicant's consulting team to complete surveys for this species on April 11 and May 1, 2002 and they agreed to take this action. The USFWS also requested surveys be completed on June 4, 2002. The surveys were completed on June 7 and 8, 2002 by Dr. Alice Karl and no lizards were found. The USFWS and CDFG told staff that if the surveys were negative no additional measures were required, and staff agrees with this conclusion.

Protections Against Noxious Weeds

Since there are no assurances that the site will be developed, staff contends that the long-term exposure of bare soil could promote an outbreak of noxious weeds. To mitigate this potential impact, staff request the following Condition of Certification be adopted and that Condition of Certification BIO-10 be modified:

BIO-15 The project owner shall re-establish vegetation on all disturbed, bare ground sites that will remain undeveloped for more than 90 days after the end of final grading. The applicant shall use a seed mix that resembles regionally native vegetation communities and includes a relatively fast-growing cover crop to reduce erosion. Seed mixtures and mulches should be certified weed-free.

Verification: The project owner shall submit the seed mixture with the relative percentages of species types and certification that the mixture is weed free within 30 days after the start of ground disturbance on the 66-acre expansion site to the CPM for approval. The project owner shall create a watering and monitoring plan for the re-seeded area prepared under the supervision of a botanist with desert restoration experience within 30 days after the start of project-related ground disturbance. The Watering and Monitoring Plan shall be submitted to the CPM for approval and it shall be incorporated into the BRMIMP.

BIO-10 A comprehensive exotic control program for California Department of Agriculture List A, List B, and Red Alert weeds, shall be implemented at the 76152-acre power plant site. This program should be implemented until such time that the adjacent land uses to the north and west are no longer a natural community or agriculture, or until the plant is permanently closed. At the Colorado River, this exotic control program should be implemented as feasible until the Caltrans ROW is replanted and established. The natural vegetation adjacent to the BEP Site shall be monitored to determine if it has been modified or degraded, if so, these changes to the adjacent sites should be documented by the project's Designated Biologist in a report which includes photos of adjacent land uses.

Verification for Condition of Certification BIO-10 would remain unchanged.